

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed July 26, 2006. At the time of the Final Office Action, Claims 6-15 were pending in this Application. Claims 1-5 were previously cancelled by Applicants without prejudice or disclaimer. Claims 6-15 stand rejected. Claims 6-10 have been amended. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. §101

Claims 6-15 were rejected under 35 U.S.C. §101 because the claimed invention is not supported by either a specific or substantial asserted utility, a credible or a well established utility. Applicants respectfully disagrees. Figs. 2, 3, 5, and 6 and associated description describe different examples of running models which use clock controlled running levels. The specification particularly describes a new way of selecting a main clock for the controller which uses this main clock for synchronous clocking in the runtime system. See for example, paragraphs [0028] and/or [0029]. Fig. 7 shows an example of an automation system with a controller S processing such a runtime system. In particular, Fig. 7 shows a plurality of possible clock sources such as an internal clock T2 of the controller a bus timer T3 within the controller to operate a equidistant bus B2, a timer T1 of an external device, and a clock generator TG of a technical process. Thus, the controller receives a plurality of clock sources according to the original submitted specification.

Rejections under 35 U.S.C. § 112

Claims 6-15 were rejected by the Examiner under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Claims 6-15 were also rejected by the Examiner under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Applicants respectfully disagree. The Examiner stated in particular, that the specification does not disclose how to select clock sources. Applicants believe that no such description is necessary. The present invention is not directed to switching means per se but

to a new automation system which allows for a more flexible way of synchronizing internal runtime levels. The present invention is furthermore directed to a person skilled in the art which in the present case would be an automation technology engineer. The selection of one signal out of a plurality of signals is well known in the art of electrical engineering. No particular explanation is necessary of any electrical engineer to design a circuit that allows for such a selection. For example, a number of controlled switches or a multiplexer can be used for this purpose. Thus, Applicants believe that the enablement requirement is fulfilled.

Rejections under 35 U.S.C. §103

Claims 6-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,778,971 issued to Steven J. Altschuler et al. ("Altschuler") in view of U.S. Patent 6,445,963 issued to Terrence L. Blevins et al. ("Blevins"). Applicants believe that the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

The Examiner stated that Altschuler discloses a plurality of clock sources and means to select one of said clock sources. Applicants respectfully disagree. The Examiner merely cited col. 14, line 51 as allegedly disclosing this limitation. However, upon review of the citation, all Altschuler discloses is that a time and date of the occurrence of an object is

obtained. Applicants respectfully request in which way this disclosure describes a selection means for selecting one of a plurality of clock sources. Applicants carefully studied Altschuler. Nowhere in Altschuler can anything about a clock selection means be found.

Thus, none of the cited prior art discloses the limitations of a clock selection means or method as defined in the independent claims. Therefore, Applicants respectfully request allowance of the independent claims. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

Request for Continued Examination

Applicants enclose a Request for Continued Examination and authorizes the Commissioner to charge the \$790.00 fee to Deposit Account No. 50-2148 of Baker Botts L.L.P.

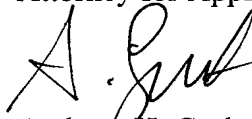
CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants enclose a Petition for Extension of Time for one-month and authorizes the Commissioner to charge the \$120.00 extension fee to Deposit Account No. 50-2148 of Baker Botts L.L.P. Applicants believe there are no additional fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,
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Date: 11/27/06

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